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| APPLICATION NO.  | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|--|-------------|----------------------|---------------------|------------------|
| 10/572,685   | 11/01/2006  | Andrew Leo Haynes    | P71185US0           | 4916             |
| 136  | 7590        | 06/05/2009           | EXAMINER            |                  |
| JACOBSON HOLMAN PLLC<br>400 SEVENTH STREET N.W.<br>SUITE 600<br>WASHINGTON, DC 20004 |             |                      |                     | NGUYEN, CHI Q    |
| 3635   |             | ART UNIT             |                     | PAPER NUMBER     |
| 06/05/2009   |             | MAIL DATE            |                     | DELIVERY MODE    |
|  |             |                      |                     | PAPER            |

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

|                              |                        |                     |  |
|------------------------------|------------------------|---------------------|--|
| <b>Office Action Summary</b> | <b>Application No.</b> | <b>Applicant(s)</b> |  |
|                              | 10/572,685             | HAYNES ET AL.       |  |
|                              | <b>Examiner</b>        | <b>Art Unit</b>     |  |
|                              | CHI Q. NGUYEN          | 3635                |  |

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 03 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) Responsive to communication(s) filed on 10 November 2006.  
 2a) This action is FINAL.                    2b) This action is non-final.  
 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) Claim(s) 1-50,52 and 53 is/are pending in the application.  
 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.  
 5) Claim(s) \_\_\_\_\_ is/are allowed.  
 6) Claim(s) 1-50,52 and 53 is/are rejected.  
 7) Claim(s) \_\_\_\_\_ is/are objected to.  
 8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) The specification is objected to by the Examiner.  
 10) The drawing(s) filed on 10 November 2006 is/are: a) accepted or b) objected to by the Examiner.  
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).  
 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
 a) All    b) Some \* c) None of:  
 1.) Certified copies of the priority documents have been received.  
 2.) Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
 3.) Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)            | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)   | Paper No(s)/Mail Date. _____ .                                    |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date <u>7/20/2006</u> .   | 6) <input type="checkbox"/> Other: _____ .                        |

## **DETAILED ACTION**

This Office action is in response to applicant's patent application filed on 11/1/2006.

### ***Information Disclosure Statement***

The information disclosure statement (IDS) submitted on 7/20/2006 is being considered by the examiner.

### ***Claim Objections***

Claims 1- 50 and 52-53 are objected to because of the following informalities: the applicant is advised to remove quotes and parenthesis through out the claims. Appropriate correction is required.

Claim 20 is objected to because the applicant is advised to remove the trade mark "the Desmopan" in the claim. Correction is required.

### ***Claim Rejections - 35 USC § 112***

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 1-50 and 52-53 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

The claims are generally narrative and indefinite, failing to conform with current U.S. practice. They appear to be a literal translation into English from a foreign document and are replete with grammatical and idiomatic errors. For example: The claim 1 claimed language is awkward and indefinite (e.g. for or suitable for flashing a

"ridgeline" as herein defined, said flashing being of multiple materials and being at least in part laminated and comprising or including:"

Claim 1 recites the limitation "the actual or phantom "ridge"". There is insufficient antecedent basis for this limitation in the claim.

Claim 1 recites the limitation "...and wherein there is a weathering surface of one or more weathering material(s) and at least one of the flanking regions has at least a partial underlying support of the weathering material(s), and at least one of said flanking regions is at least conformed to a three dimensional form, and is conformable to a retained or retainable three dimensional form or has a distal extremity greater in extent than the proximal extent of that flanking region to said ridge overlying region." is confusing and indefinite.

Regarding claim 4, the phrases "preferably" and "e.g." render the claim indefinite because it is unclear whether the limitations following the phrase are part of the claimed invention.

Regarding claim 5, the phrases "some options one or more materials e.g. as a laminate" and "(e.g. whether solely in one or both of the flanking regions or otherwise)" render the claim indefinite because it is unclear whether the limitations following the phrase are part of the claimed invention.

Claim 6 recites the limitation "wherein the distal ends of one or each of said first and second flanking regions distal from said "ridge"". There is insufficient antecedent basis for this limitation in the claim.

Regarding claim 14, the phrase "may be" renders the claim indefinite because it is unclear whether the limitations following the phrase are part of the claimed invention.

Claim 22 recites the limitation "wherein said substantially rigid section is of substantially complimentary configuration conforming to said "ridge" beam or beams, or structure defining said "ridgeline" is confusing and indefinite.

Claim 23 recites the limitation "the lamination". There is insufficient antecedent basis for this limitation in the claim.

Claim 24 recites the limitation "said weathering later". There is insufficient antecedent basis for this limitation in the claim.

Regarding claim 25, the phrases "such as" and "etc" render the claim indefinite because it is unclear whether the limitations following the phrase are part of the claimed invention.

Claim 32 recites the limitation "the under side of said ridge capping(s) or tile(s)". There is insufficient antecedent basis for this limitation in the claim.

Regarding claim 36, the phrase "may form" renders the claim indefinite because it is unclear whether the limitations following the phrase are part of the claimed invention.

Regarding claim 38, the phrase "may be" renders the claim indefinite because it is unclear whether the limitations following the phrase are part of the claimed invention.

Claims 39-50 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. There are no method steps recited in the claims.

Regarding claim 39, the citation "A method of flashing a roof with a flashing as herein before described, wherein the ridge overlying region is applied to an actual or phantom "ridge" to be flashed" is confusing and indefinite.

Regarding claim 41, the phrases "preferably" and "e.g." render the claim indefinite because it is unclear whether the limitations following the phrase are part of the claimed invention.

Regarding claim 42, a citation "wherein in some options one or more materials e.g. as a laminate, provide the ridge overlying region whilst in other forms the ridge overlying region can be at least in part, primarily or wholly of the one or more material(s) providing a weathering surface notwithstanding the fact that the flashing is at least in part laminated (e.g. whether solely in one or both of the flanking regions or otherwise)" is awkward, confusing and indefinite.

Claim 45 recites the limitation "said distal end". There is insufficient antecedent basis for this limitation in the claim.

Regarding claim 48, the phrase "may form" renders the claim indefinite because it is unclear whether the limitations following the phrase are part of the claimed invention.

Regarding claim 50, the phrase "may be" renders the claim indefinite because it is unclear whether the limitations following the phrase are part of the claimed invention.

Regarding claims 52-53, the citation "the use or methods of use..." is confusing and indefinite because there are not method steps cited.

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

As best understood, Claims 1-50 and 52-53 are rejected under 35 U.S.C. 102(b) as being anticipated by US Pat. No. 6,877,282 to Melsen et al.

Melsen et al. disclose in Figure 1, a flashing comprising a first region 10 adapted in use to flash part of a building (see col. 6, lines 13-23), a second region 20 adapted to overlie part of a building to expose a weathering surface 21, the weathering surface of the second region being defined a flexible material because it made out of aluminum foil (col. 6, lines 29-30) that extends through to form at least part of the first region, the second region under said flexible material, which defines a weathering layer having both a shape retaining three dimensionally conformed material (wavy or corrugate configuration), each of said first and second regions having opposed distal extremities and the distal extremity of the second region being longer in extend than the distal extremity of the first region by virtue of at least part of the second region being three dimensionally configured by fluting or other gathering (see Fig. 1); wherein further comprising an articulation zone (no label but wherein 10 points to) between said first and said second regions; wherein said three dimensionally conformed material is metal (col. 2, line 49); wherein said three dimensionally conformed material is a perforate or mesh (col. 2, line 58); wherein said metal is sheet aluminum (col. 6, line 8); wherein said second region 20 includes a substantially sinusoidal section when viewed in section

towards said distal extremity of the second region; wherein a synthetic rubber material provides said exterior flexible weathering surface (col. 6, line 4); wherein said three dimensionally conformed material is mould embedded at least in part in another material, said another material is flexible (see col. 6, lines 23-28); tack retaining adhesive and a release sheet (see col. 4, lines 56-62).

***Conclusion***

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Any inquiry concerning this communication or earlier communication from the examiner should be directed to Chi Q. Nguyen whose telephone number is (571) 272-6847. The examiner can normally be reached on Monday-Friday from 7:30 am-4:00 pm.

If attempt to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Richard Chilcot can be reached at (571) 272-6777.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pairdirect.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at (866) 217-9197.

/C. Q. N./  
Examiner, Art Unit 3635

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/Richard E. Chilcot, Jr./

Supervisory Patent Examiner, Art Unit 3635